

Operating Industries, Inc., Superfund Site - *De Minimis* Settlement Frequently Asked Questions

The United States Environmental Protection Agency (“U.S. EPA”) previously sent offers to *de minimis* parties to resolve their liability for wastes disposed at the Operating Industries, Inc. Site. The purpose of this information sheet is to provide answers to frequently asked questions regarding the settlement offer.

Background

The Operating Industries, Inc. (“OII”) Site is a 190-acre former landfill located in Monterey Park, California, approximately 10 miles east of Los Angeles. More than 300 million gallons of liquid industrial wastes were disposed of at the site by nearly 4,000 companies during the last ten years of its operation. A first round of smaller-liability (*de minimis*) negotiation and settlement with *de minimis* parties occurred in 1998. EPA cost recovery efforts are again underway. We currently are undertaking a second and final round of *de minimis* party notification and settlement which will involve hundreds of parties.

Why a *De Minimis* Settlement?

During its operation, the OII facility received wastes from more than 4000 parties, including businesses, industrial operations and municipalities. EPA found that over 85% of the manifested wastes at the OII Site were generated by a comparatively small group of approximately 350 parties, each of whom individually contributed at least 110,000 gallons of waste. EPA designated these parties as major waste generators, and the remaining generators of manifested waste as low-volume *de minimis* waste generators. To date, EPA has sent notice letters to all of the major generators and approximately 900 of the low-volume *de minimis* waste generators. EPA is currently in the process of identifying additional low-volume *de minimis* parties and expects to offer settlements to them.

In order to help *de minimis* parties avoid ongoing responsibilities at a site like OII, EPA frequently offers them the opportunity to resolve all their liability and minimize transaction costs by entering into an early “*De Minimis Party*” settlement.

What is the Basis for EPA’s *De Minimis* Settlement Offer?

EPA’s settlement amount is based on an estimate of all expected site-wide costs, including past and future cleanup costs.

What are the Benefits to Accepting an EPA *De Minimis* Settlement Offer?

- ! EPA’s offer provides *de minimis* parties with the ability to settle all liability at the site for one price.
- ! EPA agrees not to make any additional claims against the *de minimis* settlers.
- ! By agreeing to a settlement with EPA, *de minimis* parties avoid the cost of defending

themselves against claims from other major contributor potentially responsible parties (PRPs) seeking to recover their costs of cleanup.

- ! EPA has also requested the U.S. Department of Interior and the State of California's participation in these *de minimis* settlements to provide settling *de minimis* parties protection against natural resource damage and State claims, respectively.

What if a *De Minimis* Party can't pay its Settlement Offer?

De minimis parties that demonstrate an "inability or limited ability" to pay are eligible for a reduced settlement offer. If a *de minimis* party does not have the financial ability to pay its settlement amount but does want to settle its potential liability, we encourage that party to submit the "Ability to Pay" application.

What if a *De Minimis* Party Chooses Not to Settle with EPA?

Unfortunately, EPA does not have the resources to negotiate individually with the hundreds of *de minimis* parties. Those *de minimis* parties who choose not to settle with EPA will not be guaranteed the same level of protection from EPA and other parties that the settlement offer provides.

The OII site *de minimis*-specific web site may be found at the following web address:

<http://www.epa.gov/region09/waste/sfund/oii/deminimis/>